

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Claudia Quigley	Team: Team # 5	CCRB Case #: 201006327	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 05/08/2010 11:08 PM	Location of Incident: § 87(2)(b) and 1625 Bainbridge Street	Precinct: 81	18 Mo. SOL 11/8/2011	EO SOL 11/8/2011	
Date/Time CV Reported Sat, 05/08/2010 11:08 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 05/12/2010 11:18 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM William Reddin	18523	944924	081 PCT
2. POM Robert Deck	25661	941630	081 PCT
3. POM William Gaspari	17651	941799	081 PCT
4. POM Daniel Nicoletti	27835	942271	081 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Warren Barnes	05970	933634	081 PCT
2. POM William Sitzman	05064	939474	081 PCT
3. SGT Michael Lennihan	02344	927076	081 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Robert Deck	Abuse: On May 8, 2010, at § 87(2)(b) in Brooklyn, PO Robert Deck searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
B.POM William Reddin	Abuse: On May 8, 2010, at § 87(2)(b) in Brooklyn, PO William Reddin searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
C.POM Daniel Nicoletti	Abuse: On May 8, 2010, at § 87(2)(b) in Brooklyn, PO Daniel Nicoletti searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
D.POM William Gaspari	Discourtesy: On May 8, 2010, at § 87(2)(b) in Brooklyn, PO William Gaspari spoke obscenely and rudely to § 87(2)(b)	
§ 87(4-b), § 87(2)(g)		

Case Summary

§ 87(2)(b) called the Internal Affairs Bureau (IAB) on May 8, 2010 and filed a complaint (encl. 9A). IAB referred the complaint to the CCRB on May 12, 2010 (encl. 10A-B).

On May 8, 2010, at approximately 11:08pm, PO William Reddin and PO Robert Deck noticed a smell of marijuana emanating from a vehicle parked by § 87(2)(b) in Brooklyn, on a dead end street. The officers approached the vehicle and asked the driver, § 87(2)(b) and the passenger, § 87(2)(b) to exit the vehicle. PO Reddin requested additional units and PO Warren Barnes, PO William Sitzman, Sgt. Michael Lennihan, PO William Gaspari, and PO Daniel Nicoletti responded to the location. The following allegations resulted:

- **Allegation A: Abuse of Authority - On May 8, 2010, at § 87(2)(b) in Brooklyn, PO Robert Deck searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.**
- **Allegation B: Abuse of Authority - On May 8, 2010, at § 87(2)(b) in Brooklyn, PO William Reddin searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.**
- **Allegation C: Abuse of Authority - On May 8, 2010, at § 87(2)(b) in Brooklyn, PO Daniel Nicoletti searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.**

§ 87(2)(g)

- **Allegation D: Discourtesy - On May 8, 2010, at § 87(2)(b) in Brooklyn, PO William Gaspari spoke obscenely and rudely to § 87(2)(b)**

§ 87(2)(g)

- § 87(4-b), § 87(2)(g)

§ 87(2)(b) alleged that PO Reddin was harassing him by continuously seeking him out. This allegation was referred to IAB on July 6, 2010 and the allegation was appended to the original IAB log #10-23264.

This case was initially investigated by Investigator Elizabeth Hopkins. Following her resignation, the case was reassigned to Investigator Claudia Quigley on January 6, 2011.

Results of Investigation

Civilian Statement

Complainant/victim: § 87(2)(b)

§ 87(2)(b)

CCRB Statement

§ 87(2)(b) was interviewed at the CCRB on June 3, 2010 (encl. 12A-F) and he provided a phone statement to the CCRB on May 18, 2010 (encl. 11A). § 87(2)(g)

On May 8, 2010, at approximately 11:08pm, § 87(2)(b) and his friend, § 87(2)(b) also referred to as § 87(2)(b) by § 87(2)(b) arrived at the back entrance to § 87(2)(b)'s building, located at § 87(2)(b) in Brooklyn. § 87(2)(b) was driving his black 2005 Maxima and § 87(2)(b) was sitting in the passenger seat. As soon as § 87(2)(b) stopped the car, § 87(2)(b) heard car doors closing and observed two uniformed officers, identified by § 87(2)(b) from their shields as PO William Reddin and PO Robert Deck, approaching them. § 87(2)(b) described PO Reddin as a white male, in his thirties, about 5'6-5'7" tall, about 170 lbs, with spiked blond hair, and brown eyes. He described PO Deck as a white male, in his thirties to forties, about 5'11-6'1" tall, with an athletic build, brown hair, and partially bald. PO Reddin shined a flashlight in § 87(2)(b)'s face, asking if § 87(2)(b) remembered him. § 87(2)(b) said that he did not, and PO Reddin told him to step out of the vehicle. PO Reddin asked several more times if § 87(2)(b) remembered him and reminded § 87(2)(b) that he had issued him a summons for an open container of alcohol, which § 87(2)(b) finally recalled.

PO Reddin asked if he could search him and § 87(2)(b) said that he could not. Without responding, PO Reddin tapped the outside of § 87(2)(b)'s pockets and then put his hands inside in order to turn the pockets inside-out. PO Reddin told § 87(2)(b) to turn around; he tapped § 87(2)(b)'s rear pockets, and put his fingers inside the small coin pockets on § 87(2)(b)'s pants. § 87(2)(b) asked if he could leave, but PO Reddin just took § 87(2)(b) towards the rear of the vehicle. PO Deck was speaking with § 87(2)(b) he twice instructed § 87(2)(b) to remove the key from the ignition before § 87(2)(b) who repeatedly asked "why?," was compliant. PO Deck asked § 87(2)(b) to step out of the vehicle. § 87(2)(b) did not observe a search, but assumed PO Deck searched § 87(2)(b) because of § 87(2)(b)'s body position and PO Deck movements around him. PO Deck instructed § 87(2)(b) to go to the rear of the vehicle, and he proceeded to search § 87(2)(b)'s vehicle from the rear passenger seat and then from the driver's seat. § 87(2)(b) was unable to see PO Deck's actions inside of the vehicle because § 87(2)(b) windows are tinted.

§ 87(2)(b) and § 87(2)(b) asked PO Reddin for an explanation. Without responding, PO Reddin conducted a second search of § 87(2)(b)'s pockets. § 87(2)(b) asked PO Reddin to explain the situation. PO Reddin became belligerent and instructed § 87(2)(b) to turn around for another search. However, PO Reddin did not search § 87(2)(b) a third time, but handcuffed him and walked him towards the police car. PO Reddin then entered § 87(2)(b)'s vehicle front passenger seat and later stood at the rear of § 87(2)(b)'s vehicle. § 87(2)(b) was seated on the sidewalk; he was not handcuffed and no officer was with him. An unmarked black sedan with four plainclothes officers and a patrol car with two uniform officers arrived. The four plainclothes officers, who were dressed in informal plainclothes including hats and shorts, seemed to take over at this point. One of the officers was white male, in his late thirties, with an athletic build, and over 6' tall. The second officer was a white male, in his late thirties, with an athletic build, and over 6' tall. The third officer was a Hispanic male, in his early thirties, shorter build, and bulky. The fourth officer was a white male. The investigation determined that there were only three plainclothes officers present. These officers were identified by the CCRB as PO William Gaspari, PO Daniel Nicoletti, and Sgt. Michael Lennihan, respectively. § 87(2)(b) described two additional uniformed officers as a black male, in his early thirties, with a Caribbean accent, and dressed in uniform, and a white male, in his late thirties, going bald, short with a husky build, and dressed in uniform. These officers were identified by the CCRB as PO Warren Barnes and PO William Sitzman, respectively.

§ 87(2)(b) stated that the plainclothes officers searched the vehicle at different times and some officers re-searched places that had already been searched. As he sat in the police car, § 87(2)(b) got his cell phone from his pocket and called 911. He informed the dispatcher of the vehicle number of the marked car. While he was on the phone PO Reddin and PO Gaspari approached him. PO Gaspari said, "What are you doing, asshole?" and PO Gaspari and PO Reddin asked § 87(2)(b) how to unlock the trunk. § 87(2)(b) told them that he did not know and PO Gaspari took § 87(2)(b)'s phone. The officers were able to open § 87(2)(b) trunk. § 87(2)(b) stated that all the officers at the scene searched § 87(2)(b)'s vehicle for twenty to thirty minutes, at which time they began to jump and give each other high fives. § 87(2)(b) was placed under arrest. PO Gaspari and PO Reddin came to § 87(2)(b) and said many times, "You're going to jail for three years." § 87(2)(b) began to cry. PO Reddin and PO Deck drove § 87(2)(b) to the stationhouse and in the holding cell or in Brooklyn Central Booking, § 87(2)(b) told § 87(2)(b) that his hands were swollen from being jumped on by the officers and the tightening of the handcuffs.

Victim: § 87(2)(b)

§ 87(2)(b)

Telephone Statement

§ 87(2)(b) provided a statement over the phone on May 19, 2010 (encl. 14A). § 87(2)(g)

According to § 87(2)(b) when he and § 87(2)(b) observed the police car, § 87(2)(b) suggested waiting for the police officers to go by. However, as the officers were walking towards the building PO Deck noticed § 87(2)(b) and § 87(2)(b). PO Deck had issued § 87(2)(b) a summons for an open container of alcohol on an earlier date. PO Deck asked § 87(2)(b) if he would mind stepping out of the car. § 87(2)(b) complied after being asked a second time and PO Deck frisked and searched § 87(2)(b)'s pockets. PO Reddin told § 87(2)(b) to turn off the car and put the keys on the dashboard. § 87(2)(b) asked why but then became compliant. He consented to a search of his person by PO Reddin and then went to the rear of his vehicle where PO Reddin searched § 87(2)(b). One of the officers went to the vehicle and pulled out a marijuana "roach." § 87(2)(b) was handcuffed and placed in the police vehicle and § 87(2)(b) was instructed to sit on the sidewalk. The officers called for backup and three unmarked vehicles and two marked cars arrived with approximately twelve other officers in plainclothes and four officers in uniform. § 87(2)(b) stated that most of the officers were white males except for a black male in his thirties who identified himself as a sergeant. The investigation determined that there were only three plainclothes officers present and two additional uniformed officers. They were identified as PO Gaspari, PO Nicoletti, Sgt. Lennihan, PO Barnes, and PO Sitzman, respectively. PO Deck and PO Nicoletti opened the trunk of § 87(2)(b)'s car and found a gun. § 87(2)(b) and § 87(2)(b) were transported to the 81st Precinct stationhouse and processed.

§ 87(2)(b) was released on bail on Tuesday, May 11, 2010, and saw PO Reddin and PO Sitzman on the sixth floor of 1625 Bainbridge Street. PO Reddin put his hand on § 87(2)(b)'s chest and § 87(2)(b) said that he was being illegally profiled. PO Reddin said that § 87(2)(b) was a threat to his life because he had a gun before, and every time he sees § 87(2)(b) he is going to search him. PO Reddin then put his hands in § 87(2)(b)'s jacket and pants pockets and his socks, and patted down his jeans. PO Reddin then said, "Have a nice day. But every time I see you, this will be going down."

A voice mail message was left for § 87(2)(b) on May 18, 2010. § 87(2)(b) was contacted on May 19, 2010 and he scheduled an interview date for May 26, 2010, but he missed the appointment. He was contacted on June 2, 2010, and he stated that he would speak to his lawyer and call back with a decision.

§ 87(2)(b) did not call back. The CCRB left § 87(2)(b) two messages with his friends Kevin and Tahin on June 9 and June 17, 2010 and he was also sent letters on May 20, June 2, July 6, of 2010 and January 7, 2011. There was no response from § 87(2)(b) and he did not appear as incarcerated in the NYC Inmate Look Up System as of January 6, 2011 (encl. 41G).

NYPD Statements:

Subject Officer: ROBERT DECK

- *PO Robert Deck is a § 87(2)(b)-old white male; he is 6'1" tall, weighs 220lbs, and has blond hair and blue eyes.*
- *PO Robert Deck worked from 8:30pm on May 8, 2010 to 5:05am on May 9, 2010, he was assigned to Impact overtime, he was dressed in uniform, his partner was PO Williams Reddin, and he was assigned to vehicle #1569.*

Memo Book

PO Deck noted in his memo book that on May 8, 2010 at 11:00pm he conducted a car stop with two males at § 87(2)(b). At 11:12pm PO Reddin arrested § 87(2)(b) and § 87(2)(b) for possession of a loaded firearm. At 11:18pm they arrived at the stationhouse (encl. 16A-C).

CCRB Statement

PO Deck was interviewed at the CCRB on July 27, 2010 (encl. 17A-C). On May 8, 2010, at approximately 11:08pm, PO Deck and PO Reddin went to § 87(2)(b) a Federal Trespass Affidavit Program (FTAP) location, in order to conduct a vertical patrol. When they pulled up at the location, they immediately noticed a car with the windows down parked in an illegal spot. The vehicle did not have a front license plate. Seated in the vehicle were § 87(2)(b) and § 87(2)(b). The officers began walking towards the building and were within one foot from the vehicle when PO Deck noticed the strong odor of marijuana coming from the vehicle. PO Deck approached § 87(2)(b) on the passenger side and shined his flashlight into the vehicle because it was dark outside and there was a safety concern. He observed several marijuana cigars in the ashtray and a glass two to three inches in size containing marijuana on the floor by the passenger. PO Deck asked to see their hands and § 87(2)(b) was compliant and presented his hands. PO Deck then instructed him to exit the vehicle. § 87(2)(b) complied and was immediately handcuffed. PO Deck did not recall if he or PO Reddin frisked or searched § 87(2)(b). PO Reddin spoke with § 87(2)(b) but PO Deck could not hear their exchange. PO Reddin then frisked § 87(2)(b).

One of the officers called for backup and PO Warren Barnes and PO William Sitzman responded. § 87(2)(b) was placed in their vehicle. As § 87(2)(b) was seated in the back of the police car, PO Deck noticed that he was talking to someone on the phone. He did not know who § 87(2)(b) had been calling, although he yelled, "They're harassing me. Cops have me in back of the car." PO Deck opened the door and took the phone. He denied saying, "What are you doing asshole," or using any profanities during this incident. He stated that there was no other officer with him when he retrieved § 87(2)(b)'s phone and he did not hear any other officers using profanities when speaking with § 87(2)(b). PO Deck and PO Reddin then conducted a search of § 87(2)(b) vehicle to determine if there were more drugs. Because marijuana was found underneath the passenger seat, PO Deck believed it belonged to § 87(2)(b). § 87(2)(b) would not tell the officers how to open the trunk, which made PO Deck believe he was hiding something in the trunk. PO Deck determined that the trunk was locked with a trick lock. PO Deck located the trick locks; the first button was near the driver's seat and the second was in the glove compartment.

As PO Deck and PO Reddin searched the vehicle, three to four white male officers in plainclothes arrived, possibly in response to the request for backup. PO Deck could not identify these officers and did not know if they were from his command. No other officers searched the vehicle. After about ten minutes of searching, when the hidden lock was found and the trunk was unlocked, a firearm was located in the trunk. PO Deck and PO Reddin asked § 87(2)(b) to stand. He stood up and turned to run, going about two feet before PO Reddin and PO Deck tackled him to the ground and placed him in handcuffs. PO Deck stated that they conducted an inventory search on the scene for their safety because the vehicle was to be transported to the 81st Precinct stationhouse. § 87(2)(b) and § 87(2)(b) were transported to the stationhouse, where crack cocaine was obtained from § 87(2)(b) person.

Witness Officer: PO WILLIAM REDDIN

- *PO William Reddin is a § 87(2)(b)-old white male; he is 5'10" tall, weighs 205lbs, and has brown hair and brown eyes.*
- *PO William Reddin worked from 8:30pm on May 8, 2010 to 5:05am on May 9, 2010, he was assigned to Impact overtime, he was dressed in uniform, his partner was PO Robert Deck, and he was assigned to vehicle #1569.*

Memo Book

PO Reddin noted in his memo book that on May 8, 2010 at 11:00pm he conducted a car stop in front of § 87(2)(b). At 11:12pm two arrests by PO Deck (encl. 18A-B).

Complaint and Arrest Reports

PO Reddin stated that, "At time and place of occurrence, upon car stop, the defendant was in possession of a quantity of marijuana and a loaded, defaced firearm. A search incident to a lawful arrest [revealed] that the defendant was in possession of a quantity of a controlled substance" (encl. 20-21).

Vouchers

PO Reddin vouchered the following evidence: one cigar wrap containing marijuana, one clear container containing marijuana, one blue zip-lock bag containing crack cocaine, fifteen twists containing crack cocaine, sixteen cigar wraps containing marijuana, one black 9mm defaced firearm, one magazine, one 9mm cartridge, nine 9mm cartridges, twelve \$20 bills, two \$10 bills, one \$5 bill, twelve \$1 bills, one CD containing arrest evidence, one black cap, and one black ash tray (encl. 22A-E).

CCRB Statement

PO Reddin was interviewed at the CCRB on August 10, 2010 (encl. 23A-C), § 87(2)(g)

According to PO Reddin, upon detecting the smell of marijuana, he approached the driver, § 87(2)(b) and observed him putting something in the front of his pants in the area of his waistband. PO Deck observed a cigar wrapper containing a green leafy substance on the floor by § 87(2)(b) and indicated this to PO Reddin. PO Reddin asked § 87(2)(b) to exit the vehicle and frisked him around his waistband and the area where he was shoving something into his pants. § 87(2)(b) and § 87(2)(b) were moved to the rear of the vehicle. As the officers obtained pedigree information, PO Reddin recognized § 87(2)(b) from the previous vertical patrols conducted of the building. He stated that his knowledge of § 87(2)(b) did not affect his decision-making during this incident. PO Reddin radioed for an additional car and handcuffed § 87(2)(b). He obtained § 87(2)(b) pedigree information and instructed him to sit on the floor with his legs crossed.

PO Reddin stated that from § 87(2)(b) and § 87(2)(b)'s body language, which was antsy, he believed that something was wrong. PO Warren Barnes and PO William Sitzman arrived on the scene and

stood by § 87(2)(b) they did not have any further role in this incident. PO Reddin and PO Deck conducted a search of the vehicle for more drugs, and did an inventory of the vehicle to ensure the safety of the officer who would transport the vehicle to the stationhouse. The officers recovered a two inch long clear vial of marijuana from the floor under the passenger seat and numerous cigar wrappers containing marijuana that had been in plainview and the front license plate was in the back seat of the car. They searched inside of the trunk and located a loaded 9mm firearm. As they conducted the inventory of the vehicle, Sgt. Lennihan, the 81st Precinct Anti-Crime supervisor, and two plainclothes officers whom PO Reddin could not identify arrived. Sgt. Lennihan and the other officers, including PO Barnes and PO Sitzman, did not search the vehicle or interact with § 87(2)(b). PO Reddin did not use or hear another officer use profanity. PO Reddin searched § 87(2)(b) at the stationhouse and recovered up to twenty twist-bags of crack cocaine. PO Reddin presented photographs he took at the stationhouse on May 8, 2010 or May 9, 2010 which depict § 87(2)(b) vehicle (encl. 19A-B).

Witness Officer: PO WILLIAM SITZMAN

- *PO William Sitzman is a § 87(2)(b)-old white male; he is 5'8" tall, weighs 250lbs, and has brown hair and blue eyes.*
- *PO William Sitzman worked from 8:30pm on May 8, 2010 to 5:05am on May 9, 2010, he was assigned to Impact overtime, he was dressed in uniform, his partner was PO Warren Barnes, and he was assigned to vehicle #4978.*

Memo Book

PO Sitzman noted in his memo book that at 11:03pm he responded to call for backup at Bainbridge and Lewis, at a dead end. At 11:12pm two males were arrested by PO Reddin, and PO Sitzman transported § 87(2)(b) to the 81st Precinct stationhouse (encl. 24A-B).

CCRB Statement

PO Sitzman was interviewed at the CCRB on October 14, 2010 (encl. 25A-B). § 87(2)(g)

According to PO Sitzman, he and PO Barnes responded to a call for assistance by PO Deck and PO Reddin. PO Sitzman stated that he was unsure if PO Deck and PO Reddin were searching the civilians' vehicle at the time he arrived, and indicated that § 87(2)(b) was seated on the curb and the officers were handcuffing § 87(2)(b). PO Sitzman stood by § 87(2)(b) he did not recall if he spoke to or interacted with § 87(2)(b). PO Sitzman did not remember if he observed an officer frisking or searching § 87(2)(b) or § 87(2)(b). While PO Deck and PO Reddin were searching § 87(2)(b) vehicle, PO Sitzman opened one of the doors and leaned inside to speak with one of the officers. PO Sitzman did not sit in the car or get into the car and did not search the vehicle. PO Sitzman did not remember if PO Barnes searched the vehicle but also stated that no other officers besides PO Deck and PO Reddin searched or breached the plane of the vehicle. PO Reddin and PO Deck looked into the trunk and a firearm was recovered. Sgt. Lennihan came to the scene, but PO Sitzman did not recall which or how many officers were with Sgt. Lennihan. PO Sitzman did not remember if Sgt. Lennihan searched the vehicle. PO Sitzman did not use or hear any other officers use profanities. PO Sitzman assisted in the handcuffing of § 87(2)(b) who fought a little bit. PO Sitzman indicated that he smelled the odor of marijuana when he was in the vicinity of § 87(2)(b) car.

Witness Officer: PO WARREN BARNES

- *PO Barnes is a § 87(2)(b) year old black male; he is 5'9" tall, weighs 180lbs, and has black hair and brown eyes.*

- *PO Barnes worked from 8:30pm on May 8, 2010 to 5:05am on May 9, 2010, he was assigned to Impact overtime, he was dressed in uniform, his partner was PO William Sitzman, and he was assigned to vehicle #4978.*

Memo Book

PO Barnes did not bring his memo book to the interview and stated that he had no memo book entries regarding this incident.

CCRB Statement

PO Barnes was interviewed at the CCRB on October 13, 2010 (encl. 26A-B). § 87(2)(g)

According to PO Barnes, when they arrived at the incident location, there were 5-6 plainclothes officers and other uniformed officers, all assigned to the 81st Precinct, already present. All four doors and the trunk were open. There were two male civilians present. One of the individuals was already handcuffed and standing to the side of the civilian's car and a male with dreadlocks was sitting on the ground. The civilians were never frisked or searched while PO Barnes was present. PO Reddin, PO Deck, and some, but not all, of plainclothes officers were searching a vehicle. The officers searching the vehicle recovered a firearm from the trunk. Neither PO Barnes nor PO Sitzman touched the vehicle. PO Barnes does not recall hearing any profanity being used by any officers, but there was a lot going on. PO Barnes transported one of the males back to the stationhouse, but he did not recall which of the individuals.

Witness Officer: SGT. MICHAEL LENNIHAN

- *Sgt. Michael Lennihan is a white male; he is 5'9" tall, weighs 182lbs, and has brown hair and blue eyes.*
- *On May 8, 2010, Sgt. Michael Lennihan, was assigned to the Anti-Crime Team from 5:26pm on May 8, 2010 to 2:10am. His partners were PO Daniel Nicoletti and PO Williams Gaspari, he was assigned to an unmarked vehicle, and he was dressed in plainclothes.*

Memo Book

Sgt. Lennihan noted in his memo book that at 11:12pm he verified an arrest at § 87(2)(b) by PO Reddin, who was assigned to Impact (encl. 27A-B).

CCRB Statement

Sgt. Lennihan was interviewed at the CCRB on November 30, 2010 (encl. 28A-B). His testimony was generally consistent with that of PO Deck's and it is summarized below with any discrepancies noted. On May 8, 2010, Sgt. Lennihan and his partners drove past § 87(2)(b) when they observed PO Reddin and PO Deck engaged in a vehicle stop with two individuals under arrest. Sgt. Lennihan had not received a radio run for this incident. One individual was sitting in the curb and the second individual was in the police car. PO Barnes and PO Sitzman were also present. Sgt. Lennihan spoke with PO Reddin, who informed him that the individuals were being arrested for marijuana that had already been recovered in the front area of the vehicle. PO Reddin showed this marijuana to Sgt. Lennihan. Sgt. Lennihan stated that only PO Reddin and PO Deck searched the vehicle and the other officers stood around it. The trunk was then searched by an officer whom Sgt. Lennihan did not recall and a firearm was recovered. Sgt. Lennihan did not use or hear another officer use any profanities during this incident.

Subject Officer: PO DANIEL NICOLETTI

- *PO Nicoletti is a § 87(2)(b)-old white male who is 6'2" tall, weighs 200 pounds, and has brown hair and blue eyes.*
- *On May 8, 2010, PO Nicoletti, was assigned to the Anti-Crime Team from 5:26pm on May 8, 2010 to 2:10am. His partners were Sgt. Michael Lennihan and PO Williams Gaspari, he was assigned to an unmarked vehicle, and he was dressed in plainclothes.*

Memo Book

PO Nicoletti did not have any memo book entries regarding this incident (encl. 29A-B).

CCRB Testimony

PO Nicoletti was interviewed at the CCRB on February 18, 2011 (encl. 30A-B). § 87(2)(g)

According to PO Nicoletti, PO William Reddin and PO Robert Deck called for a supervisor to come to the location and Sgt. Lennihan responded to the location to verify the arrests. When they arrived, PO Nicoletti observed § 87(2)(b) in handcuffs sitting in the back of a patrol car and § 87(2)(b) standing on the sidewalk. The officers stated that they wanted to search the trunk of the vehicle, but they did not know how to open it. PO Nicoletti knew that some cars are equipped with a switch in the glove compartment that opens the trunk. Therefore, he went into the glove compartment of the car and found the switch. He pressed it and opened the trunk. PO Nicoletti and PO Deck searched the trunk of the vehicle and recovered a firearm. PO Nicoletti did not go anywhere else inside the vehicle other than the glove compartment to open the trunk and the trunk itself. PO Nicoletti did not interact with § 87(2)(b) but PO Gaspari may have. PO Nicoletti did not hear PO Gaspari called § 87(2)(b) an "asshole."

Subject Officer: PO WILLIAM GASPARI

- *PO Gaspari is a § 87(2)(b)-old white male who is 5'11" tall, weighs 200 pounds, and has brown hair and blue eyes.*
- *On May 8, 2010, PO Gaspari, was assigned to the Anti-Crime Team from 5:26pm on May 8, 2010 to 2:10am. His partners were Sgt. Michael Lennihan and PO Daniel Nicoletti, he was assigned to an unmarked vehicle, and he was dressed in plainclothes.*

Memo Book

PO Gaspari did not have any memo book entries regarding this incident (encl. 31A-B).

CCRB Testimony

PO Gaspari was interviewed at the CCRB on February 18, 2011 (encl. 32A-B). § 87(2)(g)

According to PO Gaspari, the conditions team, PO William Reddin and PO Robert Deck, informed PO Gaspari and his partners that they had been trying to open the trunk of the car to search it, but had been unable to do so. PO Gaspari stated that the released button for the trunk was not working and there was no keyhole to open it with. However, the officers figured out that there was a switch in the glove compartment that opened up the trunk and they were able to get it open. PO Gaspari stated that multiple officers were trying to figure out how to open the trunk and he did not recall who ended up actually opening the trunk. The trunk was searched by PO Nicoletti and he recovered a firearm. PO Gaspari did not search the vehicle, but he entered the back seat to see if the trunk could be reached via the back rest of the back seat, as some cars have a small entryway at this location. PO Gaspari stated that at some point prior to finding the firearm, he observed § 87(2)(b) who was sitting in the back of the patrol car, moving a lot. PO Gaspari and PO Reddin went over to look at him and PO Gaspari saw him making a phone call. Although he was rear cuffed, he had been able to get his cell phone from his pocket. PO

Gaspari opened the car door, told him no phone calls, and took the phone away from him and gave it to PO Reddin. PO Gaspari denied calling § 87(2)(b) an “asshole.”

NYPD Document(s)

- 81st Precinct Roll Call (encl. 33A-I) – Sgt. Lennihan, PO Gaspari, and PO Nicoletti were assigned to the Anti-Crime team during tour 3 on May 8, 2010. PO Reddin, PO Deck, PO Barren, and PO Sitzman were listed on the exception list.
- 81st Precinct Command Log (encl. 34A) – § 87(2)(b) and § 87(2)(b) were logged in at 11:18pm on May 8, 2010. The entries in the command log regarding § 87(2)(b) and § 87(2)(b) physical appearance stated that their appearance was apparently normal. They were transported to Central Booking at 8:40pm on May 9, 2010.
- SPRINT/Communications CD (encl. 35A) – There were two civilians arrested by the Impact team at 53 Bainbridge Street and Lewis Avenue at a dead end. A sergeant responded to the scene and verified the arrests.
- 911/IAB Call Recording (encl. 43B) - the request for the IAB intake CD was returned as “Call not recorded.”

Arrest for Incident and Disposition

- § 87(2)(b), § 87(2)(a) 160.50
[REDACTED]
- § 87(2)(b)
[REDACTED]

Status of Civil Proceedings

- § 87(2)(b) filed a Notice of Claim with the City of New York on June 22, 2010, claiming abuse of police power, malicious prosecution, false arrest, false imprisonment, intentional and/or negligent infliction of emotional distress, civil rights violations, negligent hiring, training, retention, and supervision, and harassment. § 87(2)(b) is seeking no less than \$500,000.00 as redress. The case remains open as of March 4, 2011 (encl. 38A-C). There was a 50H hearing held on § 87(2)(b). The transcripts will be added to the case file upon receipt.

Civilian(s) Criminal History

- § 87(2)(b) [REDACTED]
- § 87(2)(b) [REDACTED]

Civilian(s) CCRB History

- This is the first CCRB complaint filed by § 87(2)(b) and the first complaint § 87(2)(b) has been party to (encl. 6A, 7A).

Subject Officer(s) CCRB History

- PO Robert Deck has been a member of the service for four years and there are no substantiated CCRB allegations against him (encl. 2A)
- PO William Reddin has been a member of the service for three years and there are no substantiated CCRB allegations against him (encl. 3A).
- PO Daniel Nicoletti has been a member of the service for four years and there are no substantiated CCRB allegations against him (encl. 4A).
- PO William Gaspari has been a member of the service for four years and there are no substantiated CCRB allegations against him (encl. 5A).

Conclusion

Identification of Subject Officer(s)

All the officers interviewed acknowledged their interaction with § 87(2)(b) and § 87(2)(b) PO Deck, PO Reddin, and PO Nicoletti testified to the search of the vehicle for evidence. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Investigative Findings and Recommendations

Allegations Not Pleaded

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation A: Abuse of Authority - On May 8, 2010, at § 87(2)(b) in Brooklyn, PO Robert Deck searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.

Allegation B: Abuse of Authority - On May 8, 2010, at § 87(2)(b) in Brooklyn, PO William Reddin searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.

Allegation C: Abuse of Authority - On May 8, 2010, at § 87(2)(b) in Brooklyn, PO Daniel Nicoletti searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.

§ 87(2)(b) and § 87(2)(b) stated that the car was searched by PO Deck and PO Reddin and by the back up officers. PO Deck and PO Reddin stated that they searched the car after detecting a smell of marijuana and after PO Deck observed marijuana cigarettes in plainview. In regards to the back up officers, the CCRB determined that although some of the responding officers may have attempted to open the trunk, only PO Nicoletti conducted a formal search of the car with the purpose of locating evidence. What is in dispute is whether or not the officers had probable cause to search the car. According to People v. Kevin Johnson 901 N.Y.S.2d 909 (2009), "It is well settled that the smell of marijuana alone is sufficient to provide police who are trained and experienced in the use of marijuana, with probable cause to search a

vehicle and its occupants,” (encl. 1A-B). § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation D: Discourtesy - On May 8, 2010, at § 87(2)(b) in Brooklyn, PO William Gaspari spoke obscenely and rudely to § 87(2)(b)

§ 87(2)(b) alleged that PO Gaspari took his phone and called him an “asshole.” Although PO Gaspari admits to taking § 87(2)(b) s phone, he denied calling him any discourteous names. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Team: 5

Investigator:	_____	Claudia Quigley	_____
	Signature	Print	Date
Supervisor:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date